

MORGAN, LEWIS & BOCKIUS LLP  
JOHN S. BATTENFELD, SBN 119513  
JILL A. PORCARO, SBN 190412  
300 South Grand Avenue  
Twenty-Second Floor  
Los Angeles, CA 90071-3132  
Tel: 213.612.2500  
Fax: 213.612.2501  
email: [jbattenfeld@morganlewis.com](mailto:jbattenfeld@morganlewis.com)  
email: [jporcaro@morganlewis.com](mailto:jporcaro@morganlewis.com)

MORGAN, LEWIS & BOCKIUS LLP  
JENNIFER WHITE-SPERLING, SBN 166504  
5 Park Plaza, Suite 1750  
Irvine, CA 92614  
Tel: 949.399.700  
Fax: 949.399.7001  
email [jwhitesperling@morganlewis.com](mailto:jwhitesperling@morganlewis.com)

Attorneys for Defendants New York Life Insurance Company and New York Life Insurance and Annuity Corporation

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

OLGA ORTMANN, as an individual and on behalf of all others similarly situated,

Plaintiff,

V

NEW YORK LIFE INSURANCE COMPANY, a corporation; NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION, a corporation; and DOES 1 through 20, inclusive.

### Defendants.

| Case No. 3:07-CV-02506-WHA

**[PROPOSED] ORDER REGARDING  
DEFENDANTS' MOTION TO STAY  
OR TRANSFER THIS ACTION, OR,  
IN THE ALTERNATIVE, TO  
DISMISS PLAINTIFF'S FIRST,  
SECOND, FOURTH, AND SIXTH  
THROUGH TWELFTH CAUSES OF  
ACTION PURSUANT TO THE  
"FIRST-TO-FILE" RULE**

Judge: Hon. William Alsup  
Date: July 5, 2007  
Time: 8:00 a.m.  
Courtroom: 9, 19th Floor

On July 5, 2007, Defendants New York Life Insurance Company and New York Life Insurance and Annuity Corporation's Motion to Stay or Transfer This Action, or, In the Alternative to Dismiss the First, Second, Fourth and Sixth Through Twelfth Causes of Action Pursuant to the First-to-File Rule came on for regularly scheduled hearing in Courtroom 9, of the United States District Court for the Northern District of California, located at 450 Golden Gate Avenue, San Francisco, California 94102. \_\_\_\_\_ appeared for Defendants and \_\_\_\_\_ appeared for the Plaintiff.

Upon consideration of the pleadings, the papers, the arguments of counsel, and with good cause shown, the Motion is hereby **GRANTED** in full.

The case is stayed [or transferred to the United States District Court, for the Central District of California] [or Plaintiff's First, Second, Fourth and Sixth through Twelfth causes of action in the Complaint are dismissed] pursuant to the Ninth Circuit's "first-to-file" rule. Alltrade, Inc. v. Uniweld Products, Inc., 946 F.2d 622, 623 (9th Cir. 1991).

## IT IS SO ORDERED

## THE HONORABLE WILLIAM ALSUP

RESPECTFULLY SUBMITTED BY:

JILL A. PORCARO, SBN 190412  
MORGAN, LEWIS & BOCKIUS LLP  
300 South Grand Avenue, Twenty-Second Floor  
Los Angeles, CA 90071-3132  
email: [jporcaro@morganlewis.com](mailto:jporcaro@morganlewis.com)